

3 of Taylor shows that as the number of aluminum atoms increases in a cluster, the associated electron affinity increases. Applicant submits that the electron affinities identified in Taylor are those for an aluminum cluster having at most 32 atoms and does not provide an electron affinity for the aluminum layer 4 of Lohstroh. Applicant cannot find in Lohstroh a disclosure, a teaching, or a suggestion of an aluminum layer as a floating gate in a transistor that may be realized by a negative aluminum cluster having at most 32 atoms. As a result, Applicant submits that neither a reference nor objective evidence has been provided in the Office Action that discloses, teaches, or suggests that Lohstroh's aluminum layer has an electron affinity less than 3.7 eV. Therefore, Applicant submits that Lohstroh does not teach the identical invention in as complete detail as is contained in claim 1 and that Lohstroh does not anticipate claim 1. Thus, Applicant submits that claim 1 is patentable over Lohstroh for at least the reasons stated above.

For at least reasons similar to the reasons discussed above with respect to claim 1, Applicant submits that independent claims 12, 22, 31, and 52 are patentable over Lohstroh. Additionally, claims that depend on independent claims 1, 12, 22, 31, and 52 are patentable over Lohstroh for at least the reasons stated herein.

Applicant respectfully requests withdrawal of these rejections of claims 1, 3-5, 11, 12, 14-16, 18, 19, 21, 22, 24, 25, 28, 30, 31, 33, 34, 36, 52, and 54-56, and reconsideration and allowance of these claims.

First §103 Rejection of the Claims

Claims 6-10, 17, 20, 26, 27, 29, and 35 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lohstroh et al. (U.S. 4,019,197). Applicant traverses these grounds for rejection of these claims.

Claims 6-10, claims 17 and 20, claims 26, 27, and 29, and claim 35 depend on patentable claims 1, 12, 22, and 31 and are patentable over Lohstroh for at least the reasons stated above with respect to claim 1.

Applicant respectfully requests withdrawal of these rejections of claims 6-10, 17, 20, 26, 27, 29, and 35, and reconsideration and allowance of these claims.

Second §103 Rejection of the Claims

Claims 2, 13, 23, 32, and 53 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lohstroh et al. (U.S. 4,019,197) in view of Wakai et al. (U.S. 5,032,883). Applicant traverses these grounds for rejection of these claims.

Applicant submits that Wakai et al. (hereafter Wakai) does not cure the deficiencies of applying Lohstroh with respect to independent claims 1, 12, 22, 31, and 52. Therefore, Applicant submits that independent claims 1, 12, 22, 31, and 52 are patentable over Lohstroh in view of Wakai. Claim 2, claim 13, claim 23, claim 32, and claim 53 depend on patentable claims 1, 12, 22, 31, and 52, respectively, and are patentable over Lohstroh for at least the reasons stated above with respect to these independent claims.

Applicant respectfully requests withdrawal of these rejections of claims 2, 13, 23, 32, and 53, and reconsideration and allowance of these claims.

Claim Objections

Claims 57-59 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant traverses these grounds for objection of these claims.

Applicant submits that claim 57 is dependent on patentable claim 52 and is therefore patentable.

Applicant notes that claims 58-59 were rewritten in independent form including all of the limitations of the base claim and any intervening claims in the response filed 27 April 2005 in reply to the Office Action mailed 3 February 2005. Therefore, the objection in the current Office Action is at least ambiguous, if not moot. Thus, Applicant requests the removal of the finality of the Office Action. Further, Applicant submits that the instant claims 59-59 are patentable.

Applicant respectfully requests withdrawal of these objections of claims 57-59, and reconsideration and allowance of these claims.

Allowable Subject Matter

Claims 37-51 were allowed. Applicant acknowledges allowance of claims 37-51.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612) 371-2157 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

LEONARD FORBES ET AL.

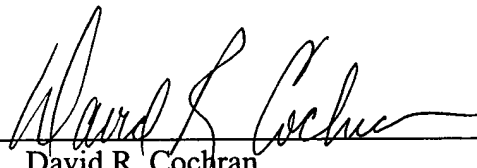
By their Representatives,

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Date

12 September 2005

By



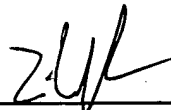
David R. Cochran

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop AF, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 12 day of September, 2005.



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